

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11cv44**

JERRY DeBERRY,

Plaintiff,

v.

**RELIANCE STANDARD LIFE
INSURANCE COMPANY,**

Defendant.

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ORDER

Pending before the Court is Defendant’s Motions to Dismiss [# 3]. Plaintiff brought this case in the Superior Court of Mecklenburg County asserting claims for breach of contract and unfair or deceptive trade practices. Defendant removed the case to this Court and then moved to dismiss the claims as preempted by the Employee Retirement Income Security Act of 1974 (“ERISA”). Subsequently, Plaintiff filed an Amended Complaint. The filing of an amended complaint supercedes the original complaint and renders it void of any legal function in the case. Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001). Accordingly, the Court **DENIES as moot** Defendant’s Motion to Dismiss [#3].

Signed: May 10, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

